

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 96-25

March 28, 1996

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: B. Allan Benson, Acting Associate General Counsel

SUBJECT: Impact Analysis and Public Outreach

A number of Regions have been processing cases pursuant to Impact Analysis since January while others are scheduled to implement it on April 1 and June 1. As we begin Impact Analysis, we must remember that it will be a new case management system not only for our employees, but also for the labor practitioners and the public as a whole. They are accustomed to a process where we basically have treated all cases alike for purposes of investigatory techniques and time goals. Thus, Regions should be alert to opportunities to educate them about Impact Analysis.

Regional Office personnel have the daily contact with the public and are in the best position to decide how, and to what extent, to educate the practitioners and the public in their respective areas. For example, the Region may wish to have briefings and informal meetings to communicate with the local bar and other groups. Where local practice and procedure groups exist, they can be used to communicate with the local practitioners. Regions may also wish to consider holding an informal seminar on the subject. In addition, a letter can be sent to various groups, as well as individual practitioners, advising them about the new system. A sample letter to groups and practitioners is attached.

Whatever method(s) the Region employs is less important than ensuring that the public understands not only the revised case management system, but also the reasons that necessitated such a change. It is also important to emphasize that the time target for the cases placed in the highest category will be consistent with the existing time target and that the time targets for cases in the lower categories will be extended.

Education is the responsibility of every employee in the Region. Many people with whom the Board agents come in contact will not understand the basis for our decision to take evidence in non-affidavit form or for our extended time frames for certain cases. The Board agent will often be, in effect, the spokesperson for both the Region and the General Counsel. Therefore, it is very important that the Regions train their employees in the proper communication of this new program. The public should understand that we are implementing Impact Analysis out of necessity in order to remain an effective Agency. There is general agreement that Impact Analysis would be unnecessary if we had sufficient resources; however, given our present level of resources we are forced to make hard choices about which portions of our work are most essential. In this regard, the guidelines for categorization of particular types of cases were established by the General Counsel based upon the recommendation of a cross-section of field employees - managers, supervisors and representatives of the NLRBU. Additionally, everyone must understand that categorization of a charge is based neither on whether the charge is filed by an institutional nor individual party.

It is recognized that not all Regions have developed a backlog and that cases in some Regions will be processed more promptly than the extended time goals. However, we are a national Agency and we deal with many national employers and unions. As such, it is necessary that the Agency continue to have a single case management system that addresses the needs of the Agency as a whole. Moreover, if resources become more scarce, backlogs may develop in additional Regions. In any event, to ensure that the public is properly served, it will become more common that cases are transferred among Regions so that some Regions will be handling cases from other Regions. Thus, even in Regions that are current in their case processing at the present time, a public understanding of Impact Analysis is both appropriate and necessary.

Finally, it should be emphasized to the public that cases in the lowest category remain an important part of our work. Impact Analysis does not contemplate that these cases will no longer be resolved. In order to assist the Regional Office personnel, sample language which can be used to respond to letters of inquiry or complaints are included as Appendix E in the Impact Analysis Training Manual.<sup>1</sup>

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<sup>1</sup> The Training Manual will be sent shortly to those Regions which will be implementing Impact Analysis effective June 1, 1996.

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Thank you for your cooperation and efforts in successfully implementing Impact Analysis. Any questions concerning this public outreach initiative or any other aspect of Impact Analysis should be addressed to your Assistant General Counsel or to any member of the Impact Analysis Work Group.

B.A.B.

Attachment

cc: NLRBU

## **SAMPLE LETTER FROM REGIONAL DIRECTOR**

Dear Jane Q. Public:

I wish to introduce you to a modification of the Agencywide system of processing unfair labor practice charges, which has recently been instituted [will be instituted beginning (month), 1996] in this Region, and to call to your attention how this modification may affect you. Called "Impact Analysis", the system is being implemented by the General Counsel after extensive study and consideration.

Impact Analysis recognizes that we cannot process all cases within existing time goals and in the context of increasing constraints on funding. Under Impact Analysis, charges will be differentiated based upon their relative impact to the public. Cases where resolution of the dispute has the greatest urgency will be processed first and the time frame for completion of these cases will be consistent with the existing time goals. Other cases will be processed in accordance with time goals that have been extended to reflect the realities of our current and projected budget and staffing situation. We recognize that, in ideal circumstances, all cases would receive sufficient resources to ensure immediate resolution. Unfortunately, however, the National Labor Relations Board's current limited budget provides substantially fewer resources than we have traditionally enjoyed, thereby mandating that we direct our efforts in the most efficient and effective manner. Thus, Impact Analysis represents a conscious, considered approach to maximize the effectiveness of our time and efforts.

Briefly stated, Impact Analysis includes three categories of cases, with Category III considered the highest impact, and Category I the lowest. The categorization selection is based neither on the identity of the charging or charged party, nor on the section of the Act alleged in the charge. Rather, categorization selection turns on which cases are likely to have the greatest public impact, defined by whether the allegations are most central to the achievement of the Agency's mission, and/or whether the allegations affect significant numbers of employees. An assessment by the Region of the nature and scope of the allegations will determine initially the time frame and the techniques by which we intend to investigate and resolve a given charge. Please be assured that you will be advised in all cases of our expectations regarding what constitutes both timely and appropriate cooperation in the investigation of charges. Please also understand that we intend to treat cases of a like nature similarly and that we will endeavor to handle all matters, within the context of Impact Analysis, as expeditiously as

our resources permit. I further wish to emphasize that both this Region and the NLRB remain committed, regardless of category, to maintaining the highest possible quality in the decision-making process.

For decades this Region has benefited greatly from the cooperation of attorneys and representatives of labor and management. Your continued support remains essential if we are to continue to provide effective service to you, your clients and the public. I am certain you understand the circumstances which led us to developing a systematic process for determining relative priorities among investigations. Likewise, as we assess and refine Impact Analysis during this initial implementation period, I welcome your comments and reaction. I am confident, with your cooperation, this new approach will provide the public with the highest level of service and greatest public impact.

Very truly yours,

Regional Director

